IN THE CIRCUIT COURT IN THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

CASE NUMBER: 05-2012-CF-035337-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

versus

BRANDON LEE BRADLEY

Defendant,

ORIGINAL PILED IN TYL-01 REPLYARD CO. FL.

TRANSCRIPT OF DIGITAL RECORDED STATUS HEARING

The transcript of the Digital Recorded proceedings taken in the above-styled cause, at the Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, Florida, on the 20th day of February, 2015, before the Honorable Morgan Reinman.

RYAN REPORTING
REGISTERED PROFESSIONAL REPORTERS

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Case # 05-2012-CF-035337-AXXX-XX

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5	CHRISTOPHER S. QUARLES, ESQ.,	
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9	THOMAC DDOWN FCO	
10	THOMAS BROWN, ESQ., and	
11	JAMES MCMASTER, ESQ., Assistant State Attorneys	
12	State Attorney's Office 2725 Judge Fran Jamieson Way	
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15	MICHAEL PIROLO, ESQ,	
16	Assistant Public Defender Public Defender's Office 2725 Judge Fran Jamieson Way	
17	Building E	
18	Viera, Florida 32940	Appearing for Public Defender's Office
19	ALSO PRESENT:	
20	Kevin C. McBride, Esq., Clerk's Office Kimberly Barding, Clerk's Office Carol Goin, Ryan Reporting	
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P R O C E E D 1 N G S

THE COURT: Mr. Quarles?

MR. QUARLES: Yes, ma'am.

THE COURT: Okay. This is Judge Reinman speaking. We need to put one more call through so if you'll hold on just a moment. Okay. Ms. Kircher?

MS. KIRCHER: Yes, ma'am.

THE COURT: Okay. This is Judge Reinman and I'm in the courtroom. Miss Kircher, if you'll identify yourself for the record.

MS. KIRCHER: Yes, Your Honor, my name is

Stacey Kircher and I'm appearing on behalf of the

State from the Attorney General's Office in Daytona

Beach.

THE COURT: Okay. Mr. Quarles, if you'll identify yourself for the record, please.

MS. KIRCHER: Chris Quarles, I'm Assistant
Public Defender currently representing Brandon
Bradley in his direct appeal in the Supreme Court of
Florida.

THE COURT: Okay. Mr. McMaster, if you'll start, we'll put everyone who's present and if you'll state your name and identify who you're with for the record, please.

MR. MCMASTER: Jim McMaster from the State

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Attorney's Office.

MR. BROWN: Tom Brown, State Attorney's Office.

MR. PIROLO: Mike Pirolo with the Public Defender's Office and was one of Mr. Bradley's trial counsel.

MR. MCBRIDE: Kevin McBride, the attorney for the Clerk of Court.

MS. BARDING: Kimberly Barding, appellate clerk with the Clerk of Court.

MS. GOIN: Carol Goin, owner of Ryan Reporting.

THE COURT: Okay. It does appear that all parties that would have an interest in this matter are present. We're here on the State of Florida versus Brandon Bradley. Just for the record, this is case number 2012-CF-0355377. We're here for a status conference. The Supreme Court relinquished jurisdiction to this Court to clarify the record. Specifically they granted the appellant's motion to relinquish jurisdiction to clarify the record and we're having a hearing with regard to that.

There was questions regarding the jury selection portion of the record as transcribed. It purports to contain a number of unintelligible portions and as it was delivered it's alleged that it was disjointed and not in order. The appellant is

requesting that the entire jury selection process be re-transcribed in the proper order. Also which it appears that there was a question with regard to one portion of the opening statement and the defense counsel's objection and this was found at the record, it looks like that's 24, maybe volume 24, pages 157 through 161. Mr. Quarles, have I identified the issues correctly?

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MR. QUARLES: Yes, except I believe that I did not in my motion ask for that -- in the motion I previously filed did not ask for the re-transcription of the jury selection in the chronologic order, I say that I anticipate perhaps having to do that and I've had discussions with Ms. Kircher and we both agreed, I believe that we've agreed on that, but it should be re-transcribed in chronological order so we can make sense of it.

THE COURT: Okay. I hear that agreement but I think it affects Ms. Goin and I didn't hear anything with regard to the cost related to that. Have you all have had any discussions with Ms. Goin?

MR. QUARLES: I have sent her the attachment to the motion. She has -- I believe, I can't remember if I was the one who talked to her about the difficulty that her court reporter had in

transcribing the jury selection from the Blue Man recordings. She put her best reporter she said on that first transcription which we said were not all transcribed but with some omitted and Ms. Kircher simply filed a motion to follow the Supreme Court order to transcribe everything and that's when we got the supplemental record with thirteen volumes of jury selection which as we point out is not in chronological order.

Additionally, the first part of the jury selection that was transcribed originally, although there are several unintelligibles, I forget the exact count on that right now, I'm in Orland in a seminar, but the supplemental record I think was transcribed by a different court reporter and in thirteen volumes of that supplemental record which is all jury selection there are at least seven hundred and fifty unintelligibles which I was -- I think when we have the entire voir dire is transcribed in chronological order, I think that a special effort needs to be made perhaps with the people that were participating in the trial to help the court reporter fill in where she can not decipher what is being said.

THE COURT: Okay. I have someone here, Michael Kazoroski, who's the director of digital court

reporting with the courthouse and he has reviewed the record. First of all, it's my understanding just by my knowledge that this is not -- I mean, you all refer to this as the Blue Man system, it's my understanding it's not a Blue Man system. think that needs to be clarified. And it's my understanding, and perhaps he should be present. Actually, I'm going to have him come up here.

Mr. Kaz -- I always just call him Mr. Mike so it's hard for me to say his last name.

MR. KAZOROSKI: Kazoroski.

THE COURT: Kazoroski. Could you come forward and go ahead and be seated in the witness chair. And just so I say it correct, can you state your full name, please?

MR. KAZOROSKI: Sure, it's Michael Kazoroski.

THE COURT: Okay. Can you clarify for the record what system, electronic system that we use here in Brevard County and what was used for purposes of this trial?

MR. KAZOROSKI: Yes, we use the Open Court's Recording software that is produced by the State of Florida to capture the proceedings in this court for that courtroom.

THE COURT: Okay. So, it's --

MR. QUARLES: I'm sorry, could he speak up? I couldn't hear that.

THE COURT: Okay. If you'll talk into that microphone, it will help him here.

MR. KAZOROSKI: We use the Open Court software which is produced by the State of Florida. I think it's actually -- it was developed in the Eighth Circuit to capture proceedings in the courtroom that the Bradley trial was held in.

THE COURT: Okay. So, to clarify, that's not Blue Man?

MR. KAZOROSKI: That's correct, Blue Man is associated with the Court Smart recording system which we do not use.

THE COURT: Okay. Have you had an opportunity to review the voir dire portion of -- that was digitally recorded?

MR. KAZOROSKI: Yes, I have reviewed along with Becky Stevens, excuse me, Granger, have reviewed the attachments that were part of the motion both the jury selection and the opening statements.

THE COURT: Okay. And did you find that anything in what you reviewed was what could be determined to be unintelligible?

MR. KAZOROSKI: Yes, we looked at the

unintelligibles and we were able to resolve all of them but two.

THE COURT: Okay.

MR. KAZOROSKI: And we also found that there was additional portions of the transcript that -- of the recording that were not transcribed.

THE COURT: So, you're saying that you found additional portions of the transcript that was not transcribed?

MR. KAZOROSKI: That's correct. And I have a copy of what we found if you'd like me to provide it.

THE COURT: Okay. I'm curious as to what the -- Ryan Reporting's position is with regard to this. So, Ms. Goin, if you'll tell me what Ryan Reporting's position is with regard to this.

MS. GOIN: Absolutely, Your Honor. This is the first I've heard of it. I didn't realize there were portions of the recording that were not transcribed.

Additionally, with regard to the jury selection not being in chronological order, we were originally requested by the Public Defender's Office in the designation to transcribe only, and that was made clear to us, only the jurors who were selected and in any section where they were questioned. So, if they were questioned on day one, day three, day five or

day six, get every piece where those jurors who were selected into the transcript. And the second time we were requested to do the transcript for the remaining jurors. We as a rule are never to provide two originals to the court unless ordered by the court. If you ordered us to do that today, we could do that, but because the original jurors were provided as the first original, the other jurors we did later, we did not include the first jurors because that would have been a second original of their transcript.

THE COURT: Okay.

MS. GOIN: That's why it appears to be disjointed because they were provided as two separate transcripts.

In terms of -- I know that Michael had let me know there were several -- there were recordings in multiple places in the room and in a couple of instances we actually requested recording in a different place in the room because it was -- some of the things were unintelligible and we were trying to clear them up. We did not request nor -- or get a copy of every recording of the entire trial that was in the room and that's my fault for not requesting every recording, but I did have the best reporter on the job and she did as much as she could with the

recording we had. And if we need to go back and look at the unintelligibles and re-transcribe those, we can do so.

And if the Court orders, we can also, I'm not quite sure how we're going to do it, we'll probably have to actually retype the transcript, put the jurors back together in one transcript and provide it to the Court.

THE COURT: Okay. And Mr. Quarles, if they do that, does that -- is that satisfactory to you as the attorney for Mr. Bradley?

MR. QUARLES: I believe, I believe she said re-transcribe the entire jury selection in the chronological order, in essence do it all over again.

THE COURT: What's going to happen is I'm going to have to order that there be one new original and then they will re-transcribe it and do that and provide one, one transcript, one new transcript that is a complete transcript of the voir dire. Is that my understanding, Ms. Goin?

MS. GOIN: That's what I understand, yes.

THE COURT: Okay. Mr. Quarles, do you have any issues with that?

MR. QUARLES: No, I think that's a good start and also she will also provide I assume the CD's

with -- so that we can -- the electronic version as you're required to do, correct?

MS. GOIN: Correct.

MR. KAZOROSKI: Yes.

MR. QUARLES: One thing that Mr. Mike said, he said he discovered certain portions were not transcribed, what proceedings were not transcribed?

I'm curious about that.

MR. KAZOROSKI: I didn't find any proceedings that were not transcribable, there were portion -- there were two sections in what I reviewed that you -- of the information you submitted that we simply could not make out what was said. So, I --

MR. QUARLES: Oh, oh, I see, I see. All right. There's some that I've attached to that motion?

MR. QUARLES: Okay. I misunderstood. I'm sorry.

THE COURT: Okay. I -- Ms. Goin, are you going to do the transcription at no further cost to the Public Defender's Office, the new transcription at no further cost to the Public Defender's Office.

MS. GOIN: I don't believe we should given that we actually provided the transcript as it was requested, and it is going to be a significant cost to us to re-transcribe.

THE COURT: Okay. Mr. Quarles, what's your response to that?

MR. QUARLES: Well, I don't blame her. I think as the -- when the Attorney General, Ms. Kircher, filed the motion to supplement there was some question about who was going to pay for it and the Supreme Court in their order ordered that the Eighteenth Circuit Public Defender's Office pay for it even though they did not want to pay for that part of it initially.

THE COURT: Well, I mean, now it's the question -- I think what -- I think they have -- it's my understanding they have paid for it so far so now it's the question of whether Ryan Reporting is going to do the new transcript and bear the expense or whether they're going to -- whether the Public Defender Eighteenth Circuit's going to pay for a brand new transcript. Just for clarification, Ms. Goin, what's your position with regard to that?

MS. GOIN: I'm comfortable with coming up with some happy medium and not charging the way we typically charge by the page. I don't believe that re-transcribing is going to take nearly as much effort and as long as the original. We have the words, we need to put them back together. So,

there's actually going to be retyping of some and interweaving of some which is going to take a little bit of time. I believe we can come up with some happy medium in terms of the number but we would appreciate it if the Court would approve some costs associated with that.

THE COURT: Mr. Pirolo, do you wish to be heard?

MR. PIROLO: Well, I don't know if I have a whole lot to add there. I did speak to Ms. Goin yesterday and she did explain that it's not as easy as just putting it together because I believe that two separate programs were used. So, I'm sure we would be able to work something out especially if it's not going to be essentially starting from scratch since a lot has been done. I think the Court would have to order it and I'm not sure if I'm in a position to really be able to object legally but I'm sure between my office and Ms. Goin's office, I'm sure we can arrive at some agreement.

THE COURT: Okay. Then I'm going to enter an order and order one new original of the voir dire from the trial. That's going to be at the expense of the Public Defender, the Eighteenth Circuit, but I will, you know, I'll reserve jurisdiction to

readdress it in the event there's not -- it can't be resolved.

Anything else from -- I have many parties here, does anyone else wish to be heard?

MR. QUARLES: Your Honor?

THE COURT: Yes, sir.

MR. QUARLES: I know -- this is Mr. Quarles again. In the re-transcription, is some effort going to be made if the court reporter cannot make out the unintelligible portions of it that the Court can have some kind of mini hearing to reconstruct with the parties that were there at the time and see if they can in context determine what is missing that the court reporter cannot make out? Is that possible?

THE COURT: I think what Mr. Mike is saying is that there's only -- there's two portions that based on the equipment that they have that they say are unintelligible.

MR. KAZOROSKI: And that was just -- we just reviewed, excuse me, we just reviewed the recordings that were provided to Ryan Reporting. I certainly don't foresee an issue but certainly if the court reporter, excuse me, the court reporter, if they have any issues is more than welcome to contact our office to see if they can help, if we can help.

1 MS. GOIN: And that was what, Your Honor, I was going to request is we'd like the opportunity to 2 clear up some of the unintelligibles with the --3 THE COURT: Yes. 4 MS. GOIN: -- with the cooperation of Michael's 5 6 office. 7 MR. KAZOROSKI: Most certainly. MS. GOIN: We can get together, get the pieces 8 9 that you understood. 10 MR. KAZOROSKI: Most definitely. 11 MS. GOIN: And go ahead and put those back into the transcript. Now, do you want us to also correct 12 anything from the trial that you were able to find as 13 well? 14 15 THE COURT: The only thing from the trial that was in that motion, in Mr. Quarles motion, was one 16 17 part from the from opening statement. MR. KAZOROSKI: And I've got that correction 18 19 already. THE COURT: You do have that correction? 20 MR. KAZOROSKI: Yes. 21 MS. GOIN: I'll work -- my office will work 2.2 23 with Michael's office and we'll get --24 THE COURT: I mean, I don't want -- I don't

think it's necessary to re-transcribe the entire

trial. There's the voir dire part and then the one section in the opening statement and obviously that's going to be a separate -- you know, I'm not going to have you do the whole opening statement. And Mr. Quarles, is -- do you wish to be heard with regard to that?

MR. QUARLES: That is fine if I understood and Ms. Goin said during the re-transcription of the jury selection that she would work with the parties, including Mr. Pirolo and other people that might have -- so we can figure out what was said if the court reporter is having difficulty, is that what she said?

THE COURT: Actually, I think what they said is that Mr. Michael is saying that most of that they think they'll be able to clear up. I think we won't be able to identi -- I don't think it would be proper to her to work with Mr. Pirolo, I think that would have to be -- directly, I think that would have to be under the guidance of the State and the Defense --

MR. QUARLES: I agree.

THE COURT: -- as to what was said.

MR. QUARLES: I agree.

THE COURT: I don't know if they want to -- if they!re willing to try to get together on -- I

understand there may be two portions that were unintelligible but do you think, Mr. Mike, if you look at your stuff you might be able to clear those up or do you think you've looked at your digital and you agree there's two portions.

MR. KAZOROSKI: There's just two portions that the words just got swallowed or that you just can't make out.

THE COURT: Are they small portions or large portions? I mean are they a section or like a few sentences?

MR. KAZOROSKI: No, it's just in the middle of a sentence a word just got eaten, you just can't hear it, make it out.

THE COURT: Any suggestions with regard -- he says there's -- looks like maybe two sections in a sentence.

MR. KAZOROSKI: Yeah.

MR. QUARLES: Your Honor, Mr. Quarles again, I have not read the entire trial. Since the jury selection was incomplete, I started with the testimony and working my way through the trial and the -- that is mostly okay except for maybe some bench conferences. These are the three instances that I've discovered and I don't -- there may be more

supplemental record of the jury selection to determine. As I said, that's not -- it's not a part of my motion at this point but as I mentioned, there were seven hundred and fifty unintelligibles in thirteen hundred pages of the transcript of jury selection which admittedly is worse than the trial itself because I think the witnesses were talking into the microphone and were much easier to hear and transcribe instead of jurors who were undergoing voir dire questions.

and I don't know if Mr. Mike has even listened to the

MR. KAZOROSKI: The -- in preparation for today, the only thing that I did was I looked at what was provided by you in your motion as well as some of the other video that occurred during jury selection and looked at the notes that the individual that was monitoring the court had entered and I did not see any issues in the portions I looked at with audio of problems hearing.

THE COURT: If you do find that there's other issues that were not identified in your motion, then I assume you're going to have to file another motion, but I think what I heard Mr. Mike say was that when he reviewed the transcript, I mean reviewed the audio, I don't think he reviewed every single word

but his --

MR. KAZOROSKI: That's correct.

THE COURT: -- his review of what -- I assume he went and reviewed different parts here and there, everything that he reviewed he could hear.

MR. KAZOROSKI: That's correct.

MR. QUARLES: Okay. I understand. And I assume, Miss Ms. Kircher, you're okay with the going in and putting the -- redoing the jury selection in chronological order as we just talked about on the phone?

MS. KIRCHER: Yes.

THE COURT: Okay. It looks like then we're going to -- we're going to do one new original of the jury selection in chronological order and then we're going to do one -- we're going to correct the part that was not audible in the -- that it was alleged to not be audible in the opening statement.

MR. QUARLES: All right.

THE COURT: That's all we're going to address today unless I hear something else.

MS. KIRCHER: Your Honor, I'm sorry, this is
Stacey Kircher from the Attorney General's Office.

Just to clarify, when the jury selection is
transcribed with the -- in its entirety in the proper

order that that will be actually appended to the record as a second supplemental record even though it will be -- it's being reference as an original, it will be a supplemental record and will have to be indicated as such.

THE COURT: Okay. Maybe that's -- I mean, it will be an original but it will be a supplement to the record.

MS. KIRCHER: Yes, Your Honor.

THE COURT: Okay.

MR. QUARLES: I agree.

THE COURT: All right. Now the deadline that we have for the corrections based on the Supreme Court is April 11th, 2015.

MR. QUARLES: I believe that's correct and -but we can always get more time if necessary. The
Florida Supreme Court is I'm sure interested in
receiving a complete and accurate record in a capital
case. As I said in my motion, it might be for
litigated for use.

THE COURT: Okay. Miss -- I mean, I recognize the importance of having a correct record. Ms. Goin, how much time do you think you need?

MS. GOIN: Based on having conversations with the court reporters involved, I believe we'll

probably going to need four to six weeks in order to make sure. If we get it done earlier, we'll absolutely send it to Kim Barding's office, but in order to make sure that we get it correct I'd like to make sure we have give the court reporters enough time to pull it together.

THE COURT: Do we want to have another status conference right before the April 11th deadline and see where we are?

How much time does it take to get an extension from the Supreme Court?

MR. QUARLES: Well, when we filed the motion I file a separate request to toll the time. I mean, it took them quite a while to rule on this one, it might have been because of the holidays, but really when you file a motion it stops the clock. Correct, Ms. Kircher?

MS. KIRCHER: That is correct. When there's a motion to supplement on the floor, there's a motion to toll that goes along with it.

THE COURT: Well, I mean, do we want to set another status conference before the 11th and see where we're at with regard to getting the record complete?

MR. QUARLES: I think that would be a good

idea.

THE COURT: The 11th is actually a Saturday.

Do we want to do it like -- if we did it on April 8th or you want it a week before that? I'm more concerned -- I think it would be -- who would ask for the extension of time?

MR. QUARLES: I would and I'm sure Ms. Kircher would agree to it, but I mean either one of us could.

THE COURT: I want you to be comfortable that you have enough time to ask for that. So, is the 8th enough time from the 11th or do you want me to set the status conference sooner?

MR. QUARLES: Eighth is fine.

THE COURT: All right. Let's set the status conference for April 8th at 1:15.

MR. QUARLES: All right.

THE COURT: Okay. And we'll do an order with regard to the proceedings from today.

Any questions or concerns from anyone? Okay. Don't hear anything from anyone present.

MS. KIRCHER: I'm sorry.

THE COURT: Ms. Kircher?

MS. KIRCHER: You had indicated that you were going to do an order as to your rulings here today, will this hearing also be transcribed and appended to

the record?

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24 25 MR. KAZOROSKI: Yes.

THE COURT: I assume it will, yes.

MR. KAZOROSKI: It will be.

I mean, with all due respect, who's THE COURT: going to do that? I mean, who pays for that? Who's going to do that? I think that's what everyone's concern is is who pays for it. All I know is I don't pay for it. So, who pays for it?

MS. KIRCHER: Right. Under the rule it is the Public Defender's, you know, as the moving party to have the record complete.

I would point out as a matter of efficiency, in the motion to supplement that I did that's the basis for this hearing today and our conversations with Mr. Quarles, we did request that the voir dire be supplemented in its entirety and appended with any additional hearings that weren't previously transcribed. So, we were trying to make the process go a little bit more smoothly and I think the order from the Florida Supreme Court was the entire voir dire as well.

THE COURT: Okay. I think that's in line with my ruling this afternoon, so.

MS. KIRCHER: Yes, Your Honor.

THE COURT: Okay. Okay. Then we'll have this proceedings recorded as well. I mean transcribed as well.

Okay. Anything else? Okay. And the hearing for this afternoon is adjourned. Okay. Thank you. You all have a good day. Have a good weekend.

MR. QUARLES: Thank you.

(Thereupon, the proceedings were concluded.)

* * * * *

1	CERTIFICATE	
2	STATE OF FLORIDA)	
3	(SS: COUNTY OF BREVARD)	
4	I, JILL CASEY, Court Reporter and Notary	
5	Public, certify that I was authorized to and did	
6	transcribe the digital recording of the Status Hearing and	
7	that the transcript is a true and complete record of the	
8	digital recording of the Status Hearing to the best of my	
9	ability.	
10	DATED this 23rd day of February, 2015.	
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12	JILL CASEY	
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14	Court Reporter	
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